

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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The New York City District Council
of Carpenters Pension Fund, et al.,

Plaintiffs,

Against

07 CIV 6450
(Judge Rakoff)

River Avenue Contracting Corp.,

Defendant.
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**AFFIDAVIT OF RICHARD TONYES IN SUPPORT OF DEFENDANT'S MOTION TO
DISMISS THE COMPLAINT AND VACATE THE ARBITRATION AWARD**

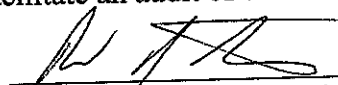
STATE OF NEW YORK) ss.:
COUNTY OF SUFFOLK)

RICHARD TONYES, being duly sworn, hereby deposes and says:

1. I am the President and sole shareholder of Defendant River Avenue Contracting Corp., ("RACC"). I am familiar with all the facts and circumstances in the above-referenced actions and submit this affidavit in support of RACC's motion to dismiss the complaint and vacate the arbitration award.
2. RACC has no objection to the Arbitration Award permitting the Plaintiffs to perform an audit of RACC for the period September 25, 2003 to date. Further, RACC has no objection to the Arbitration Award of fees and costs totaling \$5,350.00.
3. RACC objects to that portion of the Arbitration Award requiring it to facilitate audits of Extreme Concrete Corporation and R & N Concrete Corp. Although I am the President and sole shareholder of RACC, I am not a shareholder, officer, director and/or employee of Extreme and R & N and I am unable to facilitate an audit of such entities.

Sworn to before me this 28
day of SEPTEMBER, 2007


NOTARY PUBLIC


Richard Tonyes, as President of
River Avenue Contracting Corp.

